

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5149**

Chapter 270, Laws of 2013

63rd Legislature  
2013 Regular Session

CRIMES--PHARMACIES

EFFECTIVE DATE: 07/28/13

Passed by the Senate March 5, 2013  
YEAS 48 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House April 15, 2013  
YEAS 93 NAYS 4

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved May 16, 2013, 2:16 p.m.

JAY INSLEE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5149** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

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**Secretary**

FILED

May 17, 2013

**Secretary of State  
State of Washington**

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**SENATE BILL 5149**

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Passed Legislature - 2013 Regular Session

**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** Senators Carrell, Conway, Padden, Pearson, Braun, Dammeier, and Parlette

Read first time 01/21/13. Referred to Committee on Law & Justice.

1            AN ACT Relating to crimes against pharmacies; amending RCW  
2 9.94A.533; and adding a new section to chapter 9.94A RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 9.94A RCW  
5 to read as follows:

6            In a criminal case where:

7            (1) The defendant has been convicted of robbery in the first degree  
8 or robbery in the second degree; and

9            (2) There has been a special allegation pleaded and proven beyond  
10 a reasonable doubt that the defendant committed a robbery of a pharmacy  
11 as defined in RCW 18.64.011(21);

12 the court shall make a finding of fact of the special allegation, or if  
13 a jury is had, the jury shall, if it finds the defendant guilty, also  
14 find a special verdict as to the special allegation.

15            **Sec. 2.** RCW 9.94A.533 and 2012 c 42 s 3 are each amended to read  
16 as follows:

17            (1) The provisions of this section apply to the standard sentence  
18 ranges determined by RCW 9.94A.510 or 9.94A.517.

1 (2) For persons convicted of the anticipatory offenses of criminal  
2 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
3 standard sentence range is determined by locating the sentencing grid  
4 sentence range defined by the appropriate offender score and the  
5 seriousness level of the completed crime, and multiplying the range by  
6 seventy-five percent.

7 (3) The following additional times shall be added to the standard  
8 sentence range for felony crimes committed after July 23, 1995, if the  
9 offender or an accomplice was armed with a firearm as defined in RCW  
10 9.41.010 and the offender is being sentenced for one of the crimes  
11 listed in this subsection as eligible for any firearm enhancements  
12 based on the classification of the completed felony crime. If the  
13 offender is being sentenced for more than one offense, the firearm  
14 enhancement or enhancements must be added to the total period of  
15 confinement for all offenses, regardless of which underlying offense is  
16 subject to a firearm enhancement. If the offender or an accomplice was  
17 armed with a firearm as defined in RCW 9.41.010 and the offender is  
18 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
19 commit one of the crimes listed in this subsection as eligible for any  
20 firearm enhancements, the following additional times shall be added to  
21 the standard sentence range determined under subsection (2) of this  
22 section based on the felony crime of conviction as classified under RCW  
23 9A.28.020:

24 (a) Five years for any felony defined under any law as a class A  
25 felony or with a statutory maximum sentence of at least twenty years,  
26 or both, and not covered under (f) of this subsection;

27 (b) Three years for any felony defined under any law as a class B  
28 felony or with a statutory maximum sentence of ten years, or both, and  
29 not covered under (f) of this subsection;

30 (c) Eighteen months for any felony defined under any law as a class  
31 C felony or with a statutory maximum sentence of five years, or both,  
32 and not covered under (f) of this subsection;

33 (d) If the offender is being sentenced for any firearm enhancements  
34 under (a), (b), and/or (c) of this subsection and the offender has  
35 previously been sentenced for any deadly weapon enhancements after July  
36 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
37 (4)(a), (b), and/or (c) of this section, or both, all firearm

1 enhancements under this subsection shall be twice the amount of the  
2 enhancement listed;

3 (e) Notwithstanding any other provision of law, all firearm  
4 enhancements under this section are mandatory, shall be served in total  
5 confinement, and shall run consecutively to all other sentencing  
6 provisions, including other firearm or deadly weapon enhancements, for  
7 all offenses sentenced under this chapter. However, whether or not a  
8 mandatory minimum term has expired, an offender serving a sentence  
9 under this subsection may be granted an extraordinary medical placement  
10 when authorized under RCW 9.94A.728(3);

11 (f) The firearm enhancements in this section shall apply to all  
12 felony crimes except the following: Possession of a machine gun,  
13 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
14 unlawful possession of a firearm in the first and second degree, and  
15 use of a machine gun in a felony;

16 (g) If the standard sentence range under this section exceeds the  
17 statutory maximum sentence for the offense, the statutory maximum  
18 sentence shall be the presumptive sentence unless the offender is a  
19 persistent offender. If the addition of a firearm enhancement  
20 increases the sentence so that it would exceed the statutory maximum  
21 for the offense, the portion of the sentence representing the  
22 enhancement may not be reduced.

23 (4) The following additional times shall be added to the standard  
24 sentence range for felony crimes committed after July 23, 1995, if the  
25 offender or an accomplice was armed with a deadly weapon other than a  
26 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
27 for one of the crimes listed in this subsection as eligible for any  
28 deadly weapon enhancements based on the classification of the completed  
29 felony crime. If the offender is being sentenced for more than one  
30 offense, the deadly weapon enhancement or enhancements must be added to  
31 the total period of confinement for all offenses, regardless of which  
32 underlying offense is subject to a deadly weapon enhancement. If the  
33 offender or an accomplice was armed with a deadly weapon other than a  
34 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
35 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
36 the crimes listed in this subsection as eligible for any deadly weapon  
37 enhancements, the following additional times shall be added to the

1 standard sentence range determined under subsection (2) of this section  
2 based on the felony crime of conviction as classified under RCW  
3 9A.28.020:

4 (a) Two years for any felony defined under any law as a class A  
5 felony or with a statutory maximum sentence of at least twenty years,  
6 or both, and not covered under (f) of this subsection;

7 (b) One year for any felony defined under any law as a class B  
8 felony or with a statutory maximum sentence of ten years, or both, and  
9 not covered under (f) of this subsection;

10 (c) Six months for any felony defined under any law as a class C  
11 felony or with a statutory maximum sentence of five years, or both, and  
12 not covered under (f) of this subsection;

13 (d) If the offender is being sentenced under (a), (b), and/or (c)  
14 of this subsection for any deadly weapon enhancements and the offender  
15 has previously been sentenced for any deadly weapon enhancements after  
16 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
17 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
18 weapon enhancements under this subsection shall be twice the amount of  
19 the enhancement listed;

20 (e) Notwithstanding any other provision of law, all deadly weapon  
21 enhancements under this section are mandatory, shall be served in total  
22 confinement, and shall run consecutively to all other sentencing  
23 provisions, including other firearm or deadly weapon enhancements, for  
24 all offenses sentenced under this chapter. However, whether or not a  
25 mandatory minimum term has expired, an offender serving a sentence  
26 under this subsection may be granted an extraordinary medical placement  
27 when authorized under RCW 9.94A.728(3);

28 (f) The deadly weapon enhancements in this section shall apply to  
29 all felony crimes except the following: Possession of a machine gun,  
30 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
31 unlawful possession of a firearm in the first and second degree, and  
32 use of a machine gun in a felony;

33 (g) If the standard sentence range under this section exceeds the  
34 statutory maximum sentence for the offense, the statutory maximum  
35 sentence shall be the presumptive sentence unless the offender is a  
36 persistent offender. If the addition of a deadly weapon enhancement  
37 increases the sentence so that it would exceed the statutory maximum

1 for the offense, the portion of the sentence representing the  
2 enhancement may not be reduced.

3 (5) The following additional times shall be added to the standard  
4 sentence range if the offender or an accomplice committed the offense  
5 while in a county jail or state correctional facility and the offender  
6 is being sentenced for one of the crimes listed in this subsection. If  
7 the offender or an accomplice committed one of the crimes listed in  
8 this subsection while in a county jail or state correctional facility,  
9 and the offender is being sentenced for an anticipatory offense under  
10 chapter 9A.28 RCW to commit one of the crimes listed in this  
11 subsection, the following additional times shall be added to the  
12 standard sentence range determined under subsection (2) of this  
13 section:

14 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
15 (a) or (b) or 69.50.410;

16 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
17 (c), (d), or (e);

18 (c) Twelve months for offenses committed under RCW 69.50.4013.

19 For the purposes of this subsection, all of the real property of a  
20 state correctional facility or county jail shall be deemed to be part  
21 of that facility or county jail.

22 (6) An additional twenty-four months shall be added to the standard  
23 sentence range for any ranked offense involving a violation of chapter  
24 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
25 9.94A.827. All enhancements under this subsection shall run  
26 consecutively to all other sentencing provisions, for all offenses  
27 sentenced under this chapter.

28 (7) An additional two years shall be added to the standard sentence  
29 range for vehicular homicide committed while under the influence of  
30 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
31 prior offense as defined in RCW 46.61.5055. All enhancements under  
32 this subsection shall be mandatory, shall be served in total  
33 confinement, and shall run consecutively to all other sentencing  
34 provisions.

35 (8)(a) The following additional times shall be added to the  
36 standard sentence range for felony crimes committed on or after July 1,  
37 2006, if the offense was committed with sexual motivation, as that term  
38 is defined in RCW 9.94A.030. If the offender is being sentenced for

1 more than one offense, the sexual motivation enhancement must be added  
2 to the total period of total confinement for all offenses, regardless  
3 of which underlying offense is subject to a sexual motivation  
4 enhancement. If the offender committed the offense with sexual  
5 motivation and the offender is being sentenced for an anticipatory  
6 offense under chapter 9A.28 RCW, the following additional times shall  
7 be added to the standard sentence range determined under subsection (2)  
8 of this section based on the felony crime of conviction as classified  
9 under RCW 9A.28.020:

10 (i) Two years for any felony defined under the law as a class A  
11 felony or with a statutory maximum sentence of at least twenty years,  
12 or both;

13 (ii) Eighteen months for any felony defined under any law as a  
14 class B felony or with a statutory maximum sentence of ten years, or  
15 both;

16 (iii) One year for any felony defined under any law as a class C  
17 felony or with a statutory maximum sentence of five years, or both;

18 (iv) If the offender is being sentenced for any sexual motivation  
19 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
20 the offender has previously been sentenced for any sexual motivation  
21 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii)  
22 of this subsection, all sexual motivation enhancements under this  
23 subsection shall be twice the amount of the enhancement listed;

24 (b) Notwithstanding any other provision of law, all sexual  
25 motivation enhancements under this subsection are mandatory, shall be  
26 served in total confinement, and shall run consecutively to all other  
27 sentencing provisions, including other sexual motivation enhancements,  
28 for all offenses sentenced under this chapter. However, whether or not  
29 a mandatory minimum term has expired, an offender serving a sentence  
30 under this subsection may be granted an extraordinary medical placement  
31 when authorized under RCW 9.94A.728(3);

32 (c) The sexual motivation enhancements in this subsection apply to  
33 all felony crimes;

34 (d) If the standard sentence range under this subsection exceeds  
35 the statutory maximum sentence for the offense, the statutory maximum  
36 sentence shall be the presumptive sentence unless the offender is a  
37 persistent offender. If the addition of a sexual motivation

1 enhancement increases the sentence so that it would exceed the  
2 statutory maximum for the offense, the portion of the sentence  
3 representing the enhancement may not be reduced;

4 (e) The portion of the total confinement sentence which the  
5 offender must serve under this subsection shall be calculated before  
6 any earned early release time is credited to the offender;

7 (f) Nothing in this subsection prevents a sentencing court from  
8 imposing a sentence outside the standard sentence range pursuant to RCW  
9 9.94A.535.

10 (9) An additional one-year enhancement shall be added to the  
11 standard sentence range for the felony crimes of RCW 9A.44.073,  
12 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
13 or after July 22, 2007, if the offender engaged, agreed, or offered to  
14 engage the victim in the sexual conduct in return for a fee. If the  
15 offender is being sentenced for more than one offense, the one-year  
16 enhancement must be added to the total period of total confinement for  
17 all offenses, regardless of which underlying offense is subject to the  
18 enhancement. If the offender is being sentenced for an anticipatory  
19 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,  
20 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,  
21 solicited another, or conspired to engage, agree, or offer to engage  
22 the victim in the sexual conduct in return for a fee, an additional  
23 one-year enhancement shall be added to the standard sentence range  
24 determined under subsection (2) of this section. For purposes of this  
25 subsection, "sexual conduct" means sexual intercourse or sexual  
26 contact, both as defined in chapter 9A.44 RCW.

27 (10)(a) For a person age eighteen or older convicted of any  
28 criminal street gang-related felony offense for which the person  
29 compensated, threatened, or solicited a minor in order to involve the  
30 minor in the commission of the felony offense, the standard sentence  
31 range is determined by locating the sentencing grid sentence range  
32 defined by the appropriate offender score and the seriousness level of  
33 the completed crime, and multiplying the range by one hundred twenty-  
34 five percent. If the standard sentence range under this subsection  
35 exceeds the statutory maximum sentence for the offense, the statutory  
36 maximum sentence is the presumptive sentence unless the offender is a  
37 persistent offender.

1 (b) This subsection does not apply to any criminal street gang-  
2 related felony offense for which involving a minor in the commission of  
3 the felony offense is an element of the offense.

4 (c) The increased penalty specified in (a) of this subsection is  
5 unavailable in the event that the prosecution gives notice that it will  
6 seek an exceptional sentence based on an aggravating factor under RCW  
7 9.94A.535.

8 (11) An additional twelve months and one day shall be added to the  
9 standard sentence range for a conviction of attempting to elude a  
10 police vehicle as defined by RCW 46.61.024, if the conviction included  
11 a finding by special allegation of endangering one or more persons  
12 under RCW 9.94A.834.

13 (12) An additional twelve months shall be added to the standard  
14 sentence range for an offense that is also a violation of RCW  
15 9.94A.831.

16 (13) An additional twelve months shall be added to the standard  
17 sentence range for vehicular homicide committed while under the  
18 influence of intoxicating liquor or any drug as defined by RCW  
19 46.61.520 or for vehicular assault committed while under the influence  
20 of intoxicating liquor or any drug as defined by RCW 46.61.522, or for  
21 any felony driving under the influence (RCW 46.61.502(6)) or felony  
22 physical control under the influence (RCW 46.61.504(6)) for each child  
23 passenger under the age of sixteen who is an occupant in the  
24 defendant's vehicle. These enhancements shall be mandatory, shall be  
25 served in total confinement, and shall run consecutively to all other  
26 sentencing provisions. If the addition of a minor child enhancement  
27 increases the sentence so that it would exceed the statutory maximum  
28 for the offense, the portion of the sentence representing the  
29 enhancement may not be reduced.

30 (14) An additional twelve months shall be added to the standard  
31 sentence range for an offense that is also a violation of section 1 of  
32 this act.

Passed by the Senate March 5, 2013.

Passed by the House April 15, 2013.

Approved by the Governor May 16, 2013.

Filed in Office of Secretary of State May 17, 2013.